

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HICHAM AZKOUR,

Plaintiff,

-v-

JEAN-YVES HAOUZI, *et al.*,

Defendants.

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No. 11 Civ. 5780 (RJS)
ORDER

RICHARD J. SULLIVAN, District Judge:

Now before the Court is Plaintiff's third motion to reconsider the Court's August 1, 2013 Order adopting in part and denying in part Judge Fox's Report and Recommendation. Specifically, Plaintiff now accuses the Court of improper motives, unprofessional and unethical behavior, and succumbing to vanity and pride.

The Court sympathizes with Plaintiff's frustration – litigation is stressful, and losing doubly so. Nevertheless, the Court still sees no reason to reconsider its past decisions. Plaintiff points to evidence that establishes that Defendants are aware that he filed EEOC complaints. The Court does not doubt that Defendants are aware of the EEOC complaints and have been for some time. Yet Plaintiff still does not point to allegations in his complaint that Defendants – the current owners and management – were aware of the EEOC complaint when they took adverse action against him. Without an allegation of knowledge at the time of the adverse action – even if Plaintiff can show that Defendants subsequently learned of the protected activity – Plaintiff cannot state a claim for retaliation.


Plaintiff further argues that *Thomas v. Arn*, 474 U.S. 140 (1985), shows that the Court should review Judge Fox's Report and Recommendation de novo. That case, however, states

merely that a district court *may* review a magistrate judge's findings de novo. Where a party has failed to include an argument in its objections to the Report and Recommendation, the usual practice is to review for clear error, *see Kingvision Pay-Per-View Ltd. v. Zalazar*, 653 F. Supp. 2d 335, 337 (S.D.N.Y. 2009), and there is no reason to depart from that standard in this case.

Plaintiff may disagree with the Court's reasoning – he may strongly disagree – but repeated expressions of that disagreement will not change the outcome. At this point, Plaintiff's best option may be moving forward with his efforts to amend his complaint or filing an appeal. The motion is DENIED. The clerk of the court is respectfully directed to terminate the motion pending at Doc. No. 122.

SO ORDERED.

Dated: September 16, 2013
New York, New York


RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE

A copy of this Order has been sent by e-mail to:

Hicham Azkour
hicham.azkour@gmail.com